

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Sugartown Worldwide LLC,

Plaintiff,

v.

Shop216466 Store, et al.

Defendants.

Case No. 21-cv-3064

Judge Joan B. Gottschall

Magistrate Judge Jeffrey Cole

ORDER

Plaintiff has filed a notice of voluntary dismissal (ECF No. 44) purporting to dismiss its claims against five defendants with leave to reinstate in 270 days. The notice is ineffective under Seventh Circuit law for two reasons.

First, the Seventh Circuit has held that Rule 41(a) may be used only to dismiss "the whole case." *Taylor v. Brown*, 787 F.3d 851, 857–58 (7th Cir. 2015) (citing *Berthold Types Ltd. v. Adobe Sys. Inc.*, 242 F.3d 772, 777 (7th Cir. 2001) (other citation omitted)). The proper way to drop fewer than all claims or defendants is to amend the complaint under Fed. R. Civ. P. 15(a).

Second, the court may retain jurisdiction to enforce a settlement agreement only as specified by the Seventh Circuit. *See Blue Cross & Blue Shield Ass'n v. American Express Co.*, 467 F.3d 634 (7th Cir. 2006); *Shapo v. Engle*, 463 F.3d 641 (7th Cir. 2006). Counsel may wish to review Judge Denlow's article on this subject.¹

¹ "What's an Attorney to Do? Ensuring Federal Jurisdiction Over Settlement Agreements in Light of Recent Seventh Circuit Cases" by Judge Denlow may be accessed at:
http://www.ilnd.uscourts.gov/_assets/_documents/_forms/_judges/Blakey/FederalJurisdiction.pdf.

The notice here does not make clear whether plaintiff intends to dismiss its claims with or without prejudice. Nor is it clear under what conditions the dismissal converts from without prejudice to with prejudice, assuming conversion is intended. Additionally, the proposed 270-day timeline may hamper the court's ability to enter a default judgment against other defendants in the ensuing nine months since all judgments, including default judgments, must ordinarily dispose of all claims and parties. *See* Fed. R. Civ. P. 54(a)–(b). Accordingly, plaintiff's claims against the five defendants named in the notice of voluntary dismissal filed August 20, 2021, remain pending.

Dated: September 8, 2021

/s/
Joan B. Gottschall
United States District Judge